

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:17-cv-201-FDW**

SHAWN GERMAINE FRALEY,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
FNU SPAVENTA, et al.,)	
)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on periodic status review.

Pro se Plaintiff Shawn Germaine Fraley filed this action on November 3, 2017, pursuant to 42 U.S.C § 1983. (Doc. No. 1). Plaintiff has named the following three Defendants, identified as employees at Alexander Correctional Institution at all relevant times: (1) FNU Spaventa, identified as a correctional officer at Alexander; (2) FNU Walker, identified as a correctional officer at Alexander; and (3) FNU Poteat, identified as a Unit Manager at Alexander. Plaintiff alleges that on May 20, 2017, at 10:00 pm, while Plaintiff was incarcerated at Alexander in C-block on the Red Unit, Defendants Spaventa and Walker physically and sexually assaulted Plaintiff. Specifically, Plaintiff alleges that Officer Spaventa assaulted Plaintiff while Plaintiff was in his cell, punching him in the face three times while Plaintiff was handcuffed behind his back, leaving the left side of Plaintiff's face swollen. Plaintiff also alleges that Defendant Walker assaulted Plaintiff sexually, while handcuffing Plaintiff behind his back, by "placing his penis" on Plaintiff. Finally, as to Defendant Poteat, Plaintiff alleges that Poteat was the Unit Manager at Alexander and violated Plaintiff's due process rights by refusing to allow Plaintiff to have a

disciplinary hearing, and that Plaintiff was found guilty of certain, unspecified charges, without a hearing. On April 10, 2018, the U.S. Marshal returned the summons forms for these Defendants as unexecuted. (Doc. Nos. 11, 12, 14).

This Court recently enacted Local Rule 4.3, which sets forth a procedure to waive service of process for current and former employees of the North Carolina Department of Public Safety (“NCDPS”) in actions filed by North Carolina State prisoners. Due to the difficulty the U.S. Marshal is experiencing in attempting service of process, the Court will order the Clerk to commence the procedure for waiver of service as set forth in Local Rule 4.3 for the unserved Defendants.

IT IS THEREFORE ORDERED that:

1. The Clerk of Court shall commence the procedure for waiver of service as set forth in Local Rule 4.3 for Defendants FNU Spaventa, FNU Walker, and FNU Poteat, who are current or former employees of NCDPS.
2. The Clerk is respectfully instructed to mail a copy of this Order to the U.S. Marshal.

Signed: June 20, 2018



Frank D. Whitney
Chief United States District Judge

